

OS REGISTRY

FILE Legal

4 JUN 1981

EO 12036

MEMORANDUM FOR THE RECORD

STAT FROM:

[redacted]  
Policy and Plans Group  
Office of Security

SUBJECT: Proposed Revision of Executive Order 12036

1. In connection with the PSI comment regarding Subject relating to expanded authority to request and retain information from other agencies, the DC/SAG was contacted to clarify scope and intent of the comment. He advised that SAG was interested in

[redacted]  
investigation. Rather, relief is sought from restriction that genuinely hinders completion of a thorough and meaningful lawful investigation.

2. The DC/SAG was advised that Subject was intended to be a final revision that represented acceptance/rejection of suggestions of the various agencies/departments of the IC. As such, it is unlikely that any addition would be considered at this time. Given this, the DC/SAG stated that relief in any form would be welcome, be it through a legal interpretation by OGC or in the form of language to appear in an implementing directive for the Government.

3. After discussion with the DC/SAG, [redacted] AD/OGC and legal action officer for the Agency in the revision exercise, was contacted. After being advised on OS interest in clarification of Section 2-208, he made a point that an appeal now would have to be directed to the NFIB. He was told that OS did not intend to take such unilateral action and, for the present, was interested only in a legal opinion that would establish whether or not we could expect relief from the proposed order as written. It was noted that the proposal was confusing in that it was permissible to disseminate information but not clear if or under what conditions it could be requested or stored. Also, we would be interested in any Agency input to creation of an implementing directive that would afford relief.

STAT [redacted] stated he could not offer a definitive legal answer without study of 2-208 and 2-201 and would ask another attorney to look into the matter.

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4. On the same date (1 June 1981), [redacted] called and advised he was following up on the conversation with [redacted]. The OS concern was explained again and it again was emphasized that OS was not attempting to effect a last minute change in the proposed revision. [redacted] said he and his staff already had commenced work on both the Agency interpretation of the proposed order and the Agency position on an implementing directive. The OS concern would be added to other issues under consideration. As an aside, [redacted] stated that after listening to the OS problem, his preliminary reaction or "first blush" opinion was that we may be permitted to run checks that we consider are appropriate to a lawful investigation. This is based on a feeling that previous restrictions may in today's climate be regarded as protective overreaction. In any event, he will refer the OS concern to an attorney who will contact the writer for a comprehensive review of existing legal restrictions and potential relief. The DC/SAG was advised of [redacted] remarks and will be available if it is necessary to include a PSI representative in discussion with OGC.